United Nations S/AC.37/2003/(1455)/57

Security Council

Distr.: General
10 July 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 9 July 2003 from the Permanent Mission of Malaysia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Malaysia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, with reference to the latter's note dated 4 March 2003, has the honour to submit Malaysia's national report pursuant to paragraph 6 of the Security Council resolution 1455 (2003) (see annex).

03-42695 (E) 210703

Annex to the note verbale dated 9 July 2003 from the Permanent Mission of Malaysia to the United Nations addressed to the Chairman of the Committee

Report in fulfilment of United Nations Security Council resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

On the basis of available information and investigations undertaken, domestically and in cooperation with foreign law enforcement authorities, Malaysia believes that neither Al-Qaida nor Usama Bin Laden nor their associates are conducting activities in Malaysia.

Nevertheless, Malaysia is mindful of the potential terrorist threat to the region and will continue to exert all efforts, together with regional and international law enforcement authorities, in eliminating any potential threats.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

Administrative and legal measures have been taken to comply with the 1267 Committee's List. The follow-up actions required are being undertaken under several of Malaysia's laws, including the Exchange Control Act 1953, the Labuan Offshore Financial Services Authority Act 1996, the Anti-Money Laundering Act 2001, the Immigration Act 1959/1963 and the Customs Act 1967. The List and its updates are circulated to the concerned agencies for their appropriate action in a timely manner.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.

Malaysia has not encountered any implementation problem with regards to the names and identifying information of individuals, groups or entities currently included in the List.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

None of the designated individuals or entities have been identified in Malaysia.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

None

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

None

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

None

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

The 1267 Committee's Consolidated List (List) is incorporated into the financial system through circulars issued by the Governor of Bank Negara Malaysia, as the Controller of Foreign Exchange under section 44 of the Exchange Control Act 1953. These circulars instruct all licensed financial institutions and licensed offshore financial institutions to freeze funds of individuals and entities in the List that are in their custody. These circular letters take effect immediately upon issue. New circulars are issued as and when there is an update or change in the List.

All licensed financial institutions are under the regulation and supervision of Bank Negara Malaysia and the Governor of Bank Negara Malaysia is also the Controller of Foreign Exchange.

The Internal Security Act 1960 is used to prevent any activities prejudicial to security in Malaysia, including subversion and organized violence against persons and property. This is the principal legislation used in the suppression of terrorist activities in the country.

III. Financial and economic asset freeze

9. Please describe briefly:

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

The Governor of Bank Negara Malaysia, as the Controller of Foreign Exchange, issued circulars under section 44 of the Exchange Control Act 1953. These circulars instruct all licensed financial institutions and licensed offshore financial institutions to freeze funds of individuals and entities on the List that are in their custody. These circular letters take effect immediately upon issue. New circulars are issued as and when there is an update or change in the List.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama Bin Laden, Al-Qaida or Taliban related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

Framework

Malaysia adopts a non-integrated approach for its anti-money-laundering regime under the Anti-Money Laundering Act 2001 (AMLA). The legal framework under the Act provides for multi-agency implementation by the Financial Intelligence Unit (FIU), the regulatory and supervisory authorities of reporting institutions as well as the relevant law enforcement agencies (see chart 1).

The anti-money-laundering mechanism is used to track terrorist financing by incorporating sections 125 and 125A of the Penal Code as money-laundering predicate offences under the Act. Any funds collected to be utilized for the purpose of waging war against any power in alliance with His Majesty the King or for the harbouring or attempting to harbour any person in Malaysia or person residing in a foreign State at war or in hostility against His Majesty the King are considered proceeds of crime and any attempt to deal with them are considered to be money-laundering offences. The term "harbour" stipulated in section 125A of the Penal Code is defined in section 130A of the Penal Code as follows:

> *"harbour" includes supplying a person with shelter, food, drink, money or clothes; or, except by a person employed in a Government hospital, medicine, bandages, surgical dressings or any other form of aid to a person wounded; or arms, ammunition or means of conveyance, or assisting a person in any way to evade apprehension.*

The definition of the term "harbour" set out above covers the act of supplying a person with, among others, money, that is, the financing of terrorism.

The reporting institutions specified under the Anti-Money Laundering Act are obliged to report any suspicious transactions, including transactions relating to offences under sections 125 and 125A of the Penal Code, to the Financial Intelligence Unit of Bank Negara Malaysia. The Unit will perform preliminary analysis and determine if the information needs to be shared with the relevant enforcement agencies for further investigation.

Supervisory authorities are required to report to the Unit any information received from any reporting institutions relating to transactions or activities that could be related to any unlawful activity or serious crime, including terrorist financing. Supervisory authorities are empowered under the Act to adopt the necessary measures to prevent or avoid having any person who is unsuitable from controlling, or participating, directly or indirectly, in the directorship, management or operation of the reporting institutions. Supervisory authorities could also issue guidelines to assist reporting institutions in detecting suspicious transactions among their customers.

Part V of the Anti-Money Laundering Act confers extensive investigation powers on the relevant law enforcement agencies having the power to enforce the law relating to any of the 150 serious offences listed in the Second Schedule to the

Act. For example, the Royal Malaysian Customs may investigate the money-laundering offence relating to smuggling under the Customs Act 1967. Bank Negara Malaysia may investigate the money-laundering offence relating to illegal deposit taking under section 25 of the Banking and Financial Institutions Act 1989.

The Financial Intelligence Unit is established within Bank Negara Malaysia to carry out its functions as the competent authority under the Anti-Money Laundering Act. All suspicious transactions detected by the reporting institutions are reported to the Unit. The Unit shares the details of such suspicious transactions with the relevant domestic law enforcement agencies. In addition, the Unit is able to share the details of suspicious transactions with the corresponding authority of a foreign State if there exists an arrangement with the foreign State. On 29 January 2003, the Unit executed a Memorandum of Understanding (MoU) with Australian Transaction Reports and Analysis Centre (AUSTRAC), the Australian financial intelligence unit for the sharing of financial intelligence.

Coordination

In respect of terrorist financing tracking, the National Coordination Committee to Counter Money Laundering (NCC) was established to facilitate inter-agency cooperation and coordination. The Committee was established in April 2000 to enhance cooperation among domestic agencies involved in the fight against money-laundering and terrorist financing. Bank Negara Malaysia is the lead agency for the Committee that consists of 12 other Ministries and government agencies. The Deputy Governor of Bank Negara Malaysia, in charge of the Financial Intelligence Unit, is the chairman of the Committee. The Unit, being the Committee's secretariat, regularly updates Committee members on other countries' experiences in combating money-laundering, reviews existing investigative processes and fine-tunes the national anti-money-laundering programme. Committee members are as follows:

- Anti-Corruption Agency
- Attorney General's Chambers
- Bank Negara Malaysia
- Companies Commission of Malaysia
- Inland Revenue Board
- Labuan Offshore Financial Services Authority
- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of Home Affairs
- National Drugs Agency
- Royal Malaysian Customs
- Royal Malaysian Police
- Securities Commission

The Committee's objectives are as follows -

- Develop national policy measures to counter money-laundering

- Coordinate national policies with regional and international initiatives
- Agree on an action plan to counter money-laundering in Malaysia
- Ensure Malaysia complies with its Asia/Pacific Group on Money Laundering membership requirements and paragraph 15 of the United Nations Political Declaration and Action Plan Against Money Laundering to have anti-money-laundering legislation in place by year 2003
- Develop and ensure proper implementation of measures to counter money-laundering based on internationally accepted standards, i.e. the 40 Recommendations of the Financial Action Task Force on Money Laundering (FATF)
- Identify and remedy any overlap or discrepancy between the existing and proposed measures to counter money-laundering
- Monitor the effectiveness of measures that have been implemented
- Liaise with foreign Governments and international organizations or bodies on matters relating to money-laundering, including terrorism.

Besides the National Coordination Committee to Counter Money Laundering, an inter-agency committee led by the Ministry of Foreign Affairs meets regularly to review the various United Nations resolutions relating to international terrorism and to make appropriate recommendations concerning Malaysia's accession to the United Nations conventions and protocols on international terrorism. To date, Malaysia has signed or is a party to the following conventions and protocol:

Counter-Terrorism Convention	*Status*
Convention on Offences and Certain Other Acts Committed on Board Aircraft	Implemented through the Aviation Offences Act 1984
Convention for the Suppression of Unlawful Seizure of Aircraft	Implemented through the Aviation Offences Act 1984
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	Implemented through the Aviation Offences Act 1984
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation	Signed on 24 February 1988 but not ratified yet

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama Bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

The Ministry of Foreign Affairs informs and circulates the Consolidated Lists issued by the United Nations Security Council Committee established pursuant to

resolution 1267 (1999) to the relevant authorities including Bank Negara Malaysia. The working framework in responding to the United Nations Security Council resolution is depicted in chart 2.

The Controller of Foreign Exchange is empowered under section 44 of the Exchange Control Act 1953 to freeze transactions in bank accounts, if the Controller is satisfied that, owing to the changes in the external or internal position of any country or territory, action is being, or is likely to be, taken to the detriment of the economic position of Malaysia. The Exchange Control Act 1953 empowers the Controller to prohibit a licensed institution from complying with the directions of a foreign Government or a customer to move its or his funds or to carry out any transaction in relation to an account in Malaysia unless the written permission of the Controller has been obtained.

To date, the Controller has issued nine circulars to all licensed financial institutions and licensed offshore financial institutions to freeze the funds and financial resources, including funds derived or generated from property owned or controlled, directly or indirectly, by Usama Bin Laden, the Al-Qaida organization or the Taliban and other individuals, groups or entities associated with them as listed in the United Nations Security Council resolutions 1267 (1999) and 1390 (2001).

In response to the circulars issued by the Controller of Foreign Exchange, every financial institution would run queries against their database to check for the listed individuals and entities. If there is a match, the financial institution needs to immediately freeze the accounts and related financial assets and inform the Controller accordingly. At the same time the financial institution will report the details of such findings as suspicious transactions reports (STRs) to the Financial Intelligence Unit of Bank Negara Malaysia. The Unit analyses the reports and may request for additional information, where necessary, after which the report would be submitted to the Royal Malaysian Police (RMP) to initiate investigation on the individuals and entities involved.

All licensed financial institutions are required to conduct customer due diligence. The following guidelines are issued in relation to customer due diligence:

Guidelines on Money Laundering and "Know Your Customer Policy" (BNM/GP9) (see attachment 1)

The Guidelines were issued by Bank Negara Malaysia to the banking institutions in September 1989 and revised on 27 December 1993 to ensure compliance with the Financial Action Task Force's 40 Recommendations through customer identification and verification, financial record-keeping and mandatory reporting of suspicious activity. These Guidelines were issued to prevent Malaysian banking institutions from being used as a conduit for money-laundering. It requires banking institutions to determine the true identity of customers opening accounts or conducting transactions relating to any other services, to develop a "transaction profile" of each customer, and sets document retention policies with the objective of identifying suspicious transactions. Banking institutions are also required to identify a single reference point within their organization that will report promptly to Bank Negara Malaysia any unusual or suspicious transactions, irrespective of the amount.

Minimum Guidelines on the Provision of Internet Banking (see attachment 2)

Bank Negara Malaysia issued the Minimum Guidelines on the Provision of Internet Banking Services on 1 June 2000 requiring banking institutions to have face-to-face interaction with customers prior to the opening of accounts or the extension of credit. Banking institutions are also required to establish appropriate measures to identify customers reached over third-party web sites and the customer verification process should be as stringent as that for face-to-face customers. In providing Internet banking services, banking institutions are also required to implement monitoring and reporting mechanisms to identify potential money-laundering activities.

Guidelines on Anti-Money Laundering for the Insurance Industry (JPI/GP27) (see attachment 3)

The guidelines were issued by Bank Negara Malaysia to the insurance industry on 25 April 2001. Among others, the guidelines specify guiding principles on customer identification, record-keeping requirements, recognition and reporting of suspicious transactions and training of staff.

Guidelines on Money Laundering and "Know Your Customer Policy" for The Labuan Offshore Financial Services Authority (see attachment 4)

Guidelines similar to Bank Negara Malaysia/GP9 were issued to Labuan Offshore Banks.

Code of Banking Practice (issued by the Association of Banks in Malaysia) (see attachment 5)

This code similarly incorporates customer due-diligence practices.

Rule 3.4.3 (3) of the Rules of Kuala Lumpur Stock Exchange on "Know Your Customer" (see attachment 6)

Stockbrokers are required to implement and maintain appropriate guidelines for their dealer's representatives to assist them in learning essential facts about their clients' background, including the clients' investment objectives, knowledge and experience in dealing in securities, financial background and any other information required by the exchange. This requirement includes the process of opening and maintaining the central depository account (CDS) for clients by stockbrokers. These rules are provided with statutory backing and strengthened through section 11 of the Securities Industry Act 1983, which allows for the stock exchange and the Securities Commission to take a range of actions against persons who fail to comply with this rule. To ensure compliance, the Securities Commission and the Stock Exchange conduct on-site examinations on the stockbrokers.

Rule 603.1 of the Rules of the Malaysian Derivatives Exchange (MDEX) (see attachment 7)

Before commencing a trade in contracts for or on behalf of any client, the futures broker, who is a trading member, must exercise due diligence with regard to ascertaining clients' details, including their investment objectives and financial situation, and to retain a record of such information. Securing such information is necessary before a compliance officer can open the client's account for trading

purposes. Where a person who is under an obligation to comply with the above rules but fails to comply with any of those business rules, the Securities Commission is empowered under section 11A of the Futures Industry Act 1993 (FIA) to apply to the court for an order for such compliance. It should also be highlighted that, before making any recommendation to its client, a futures broker is obligated under section 52B(2) of the Act to take into account his client's investment objectives, financial situation and particular needs. Failure to comply with this requirement entails criminal liability and upon conviction shall be liable to a fine up to RM 1million or imprisonment for a term not exceeding 10 years, or both. As in the case of the securities market highlighted above, the Securities Commission and MDEX conduct on-site examination on the futures brokers from time to time to ensure compliance with the law.

Enforcement of requirement

The supervisory role of Bank Negara Malaysia was strengthened further to ensure that financial institutions have sufficient controls in place to prevent their institutions from being abused by money launderers and from, as a result, being subject to concentration, legal and reputational risks. In this regard, Bank Negara Malaysia conducts on-site examinations on banking institutions and insurance companies to assess the adequacy and effectiveness of their anti-money-laundering policies, procedures, systems and controls that have been put in place to ensure that they will be able to comply with the requirements of the Anti-Money Laundering Act. The scope of the examinations encompasses an assessment of the anti-money-laundering infrastructure, the institution's compliance with its own internal policies and procedures, the identification of account holders, monitoring of transactions, record-keeping, as well as the detection and reporting of unusual and suspicious transactions. It also includes an assessment of the training and awareness programmes for employees, an internal audit of the anti-money-laundering initiatives, as well as the roles and responsibilities of the anti-money-laundering compliance officer. These anti-money-laundering infrastructures and procedures enable financial institutions to be equipped to identify suspicious customers, report suspicious transactions to the Financial Intelligence Unit and assist the law enforcement authorities through providing an audit trail.

In ensuring that the above tasks are effectively carried out, examiners, who are specially trained in the area of anti-money-laundering, undertake the examinations of the anti-money-laundering initiatives of the financial institutions. The examinations on anti-money-laundering activities are based on international best practices, as advocated by international bodies such as the Basel Committee on Banking Supervision.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution.

This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**

- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**

- **the value of assets frozen.**

The domestic and offshore licensed financial and banking institutions have been directed to freeze any funds or financial assets belonging to Usama Bin Laden, members of the Al-Qaida organization, the Taliban and other individuals, groups or entities associated with them pursuant to resolution 1390 (2002). To date, no funds or other financial assets or economic resources belonging to individuals, groups or entities referred to in resolution 1390 (2002), or funds derived from property owned or controlled, directly or indirectly, by them in this country have been frozen, as none have been found.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

Not relevant in view of the fact that no relevant assets or funds have been frozen.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**

- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**

- **Requirements, if any, placed on financial institutions other than banks to provide STRs, and how such reports are reviewed and evaluated.**

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

Suspicious Transaction Reports (STR)

The Anti-Money Laundering Act came into force on 15 January 2002. As at 28 February 2003, the reporting of suspicious transaction, as required in Section 14(b) of the Act has been invoked on 1040 reporting institutions, including financial institutions.

Section 14(b) of the Act sets the statutory obligation for all officers and employees of reporting institutions (including financial institutions) to report **any** suspicious transaction. Should there be **reason to suspect** any transaction as being related directly or indirectly to any of the serious offences, or foreign serious offences, a reporting institution has to file an STR to the Financial Intelligence Unit. There are currently 150 serious offences listed under the Second Schedule to the Act. The information to be included in the STR would comprise information on the person conducting the transaction, information on the account holder or beneficiary of the transaction, details of the transaction, and a description of the suspicious transaction.

Failure to report any suspicious transaction, to the Unit is an offence under the Act and shall upon conviction be liable to a fine not exceeding RM100,000 or to imprisonment for a term not exceeding 6 months, or both.

The workflow for the reporting of STRs is documented in chart 3. Once a reporting institution detects any suspicious transaction, an STR would be raised and submitted to the Unit. Upon receipt of the STR, the Unit would check against their database to identify if there is any previous STR filed against the same individual or entity or associates. At the same time, the STR would be uploaded or entered into the database. If necessary, the Unit may request additional information from the respective Government agencies. For example, information on vehicles involved would be requested from the Road Transport Department and information on companies involved would be requested from the Companies Commission of Malaysia. In addition, the Unit would gather further intelligence that is considered necessary to enhance the information held.

Once it is determined that the intelligence should be shared with the Law Enforcement Agency (LEA), the Financial Intelligence Unit would conduct discussion with the Agency. In the course of discussion more information may be gathered before the report is finalized. The finalized report will be disseminated to the respective Agency. The documentation involved throughout this process will then be filed for future reference.

The request for information submitted by the Agency undergoes the similar process as the STR.

Cross-border Wire Transfer Transactions

All transaction between residents and non-residents are to be recorded as follows:

- *Forms Payment (P) and Receipt (R)*

With effect from 1 April 2003, forms P and R are to be completed for all transactions that are individually valued at RM50,001 and above (or its equivalent in foreign currency).

• *Statements Bulk Payment (BP) and Bulk Receipt (BR)*

With effect from 1 April 2003 all transactions that are individually valued at between RM5,001 and RM50,000 are recorded in the bulk registers.

• *Statements E (External Accounts), F (Foreign Currency Accounts) and M*

All transactions between residents and non-residents that are individually valued at RM5,000 and below would continue to be reported as "Transactions of RM5,000 and below" in either Statements E or F, while remittances of RM5,000 and below made by foreign workers should be reported in Statement M.

Late submission or failure to ensure correctness of forms/statements will render the licensed banking institution liable to a maximum fine of RM50,000 or to imprisonment for a term not exceeding 6 months, or both, under the Bank Negara Malaysia Act 1958; or to a fine not exceeding RM10,000, or to imprisonment for a term not exceeding 3 years, or both, under the Exchange Control Act 1953.

Cross-border currency reporting

Resident travellers are required to obtain the approval of the Controller of Foreign Exchange and declare in the Travellers Declaration Form when they carry into or out of Malaysia more than RM1,000 and carry out of Malaysia foreign currency notes and/or travellers cheques exceeding the equivalent of RM10,000. Non-residents are free to bring in any amount of foreign currency and/or traveller's cheques but must declare in the Embarkation Card issued by the Immigration Department any amount in excess of the equivalent of US$ 2,500. Non-residents must also declare any amount exceeding RM1,000 brought into or out of Malaysia. Any person contravening this legal prohibition is, upon conviction, liable to a fine of RM10,000 or not less than 10 times the amount of smuggled money under Section 135 of the Customs Act 1967. Smuggled money seized will be forfeited to the Federal Government under Section 128 of the Customs Act 1967, if there is no claim within one month from the date of seizure and there is no prosecution of the offender.

With regard to gold, the Exchange Control (Gold Exemption) Order 1986 allows persons in Malaysia to hold, buy, borrow, sell, lend or export gold. Hence, there is no restriction for any person in Malaysia to bring gold into or out of Malaysia.

Provisions for regulating informal banking (hawala)

In Malaysia, informal banking networks are prohibited by virtue of section 4 of the Banking and Financial Institutions Act 1989 (BAFIA), which requires any person who wants to carry on a banking business to apply for a licence from Bank Negara Malaysia. A person who contravenes this section shall be liable, upon conviction, to imprisonment for a term not exceeding 10 years or to a fine not exceeding RM10 million, or to both. Section 10 of the Exchange Control Act 1953 (ECA) prohibits any person from carrying on the business of remitting money or in kind outside Malaysia except with the permission of the Controller of Foreign Exchange. Under paragraph 7 (2) of the Fifth Schedule to the Act, anyone who contravenes section 10 shall be liable, upon conviction, to a fine not exceeding RM10,000 or to imprisonment for a term not exceeding 3 years, or to both. Section 30(1) of the Money-Changing Act 1998 prohibits licensed money-changers from

remitting or transferring funds outside Malaysia. Nevertheless, a licensed money-changer may, on its own behalf, remit or transfer funds outside Malaysia through an authorized dealer. A licensed money-changer who contravenes this section shall be guilty of an offence and upon conviction be liable to a fine not exceeding RM100,000.

IV. Travel ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The Immigration Department keeps its personnel updated on the Lists issued by the United Nations.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

The right of entry of a person depends on his or her ability to fulfil certain requirements at the point of entry, and the decision made by an immigration officer at the entry checkpoint. The person has to be cleared from the Department's suspects' list. The entry of a visa holder may be refused if it is found that there are reasonable grounds for a refusal of entry.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The Malaysian Immigration Department is in the process of implementing the Advanced Passenger Information (API) System as required by the Asia-Pacific Economic Cooperation Organization (APEC). The API System would enable immigration authorities in Malaysia to prevent criminals or suspected terrorists from entering or leaving the country via electronic exchanges of information.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

The Immigration Department has yet to identify any listed individual at the border checkpoints.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa issuing authorities identified any visa applicant whose name appears on the List?

The Immigration Department keeps its personnel at entry/exit points and Consular offices updated on the Lists issued by the United Nations. The relevant authorities have yet to identify any visa applicant whose name appears on the List.

V. Arms embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama Bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

The Arms Act 1960 and Firearms (Increased Penalties) Act 1971 provide for the regulation of firearms possession, sales, repairs, trade and brokering, importation and exportation. Possession of firearms is only allowed by license issued by the Royal Malaysian Police (RMP). Permits for the importation or exportation of firearms are also issued by the RMP.

The importation, exportation and general movement of nuclear material is also strictly regulated under the Atomic Energy Licensing Act 1984.

A list of prohibited items, including arms and other dangerous items, is also enforced under the Customs Act 1967, where the Minister of Finance is empowered to prohibit the importation into or exportation from Malaysia, either absolutely or conditionally, or from or to any specified country, territory or place outside Malaysia of specified items.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama Bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

All firearms brokers in the country have to apply for licences to carry out their businesses and the personal particulars of purchasers of firearms from these brokers are recorded in a logbook by each broker. Hence, tracing of individual owners of firearms can be done by the authorities when needed.

Any person found in possession, custody or control of any arms or ammunition without an arms licence or fails to comply with the arms licence commits an offence under the Arms Act 1960 and is liable to imprisonment for up to 7 years or to fine of up to RM100,000 or both.

Further, under the Firearms (Increased Penalties) Act 1971, a person trafficking in firearms shall be punished with death or imprisonment for life and with whipping of not less than 6 strokes, while a person in unlawful possession of a firearm shall be punished with imprisonment, which may extend to 14 years and with whipping of not less than 6 strokes.

The importation or exportation of prohibited goods contrary to such prohibition is criminalized under the Customs Act 1967 and is punishable -

(a) in the case of the first offence, by a fine of not less than 10 times the value of the goods or RM50,000, whichever is the lesser amount, and of not more than 20 times the value of the goods or RM100,000, whichever is the greater amount, or to imprisonment not exceeding 3 years or to both; and

(b) in the case of the second or subsequent offence, by a fine of not less than 10 times the value of the goods or RM100,000, whichever is the lesser amount, and of not more than 50 times the value of the goods or RM500,000, whichever is the greater amount, or to imprisonment not exceeding 5 years or to both.

However, if the value of the goods cannot be ascertained, the penalty may amount to a fine not exceeding RM500,000 or to imprisonment for a term not exceeding 5 years or to both.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama Bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

With reference to the responses given to questions 20 and 21, Malaysia's arms/arms broker licensing system is one of the most stringent in the world, with substantial penalties imposed in the event of contravention, including the death penalty. Further, the issue of arms licences and arms broker licences are strictly regulated by the Royal Malaysia Police.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama Bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

At present, the manufactures of small arms and ammunition in Malaysia that number only a few companies and produce only for the use of the armed forces in Malaysia. If the situation arises, a manufacturer who proposes to export small arms or ammunition abroad would need to apply for a specific licence from the Minister for Home Affairs. The proposed country of destination of such exportation would be scrutinized by the Minister before such licence is granted.

VI. Assistance and conclusion

24. and 25. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

In enhancing the implementation of measures contained in the resolutions, Malaysia welcomes the proposals on the provision of assistance to and from other States.

26. Please include any additional information you believe pertinent.

None